

REMARKS

Introductory Comments

Reconsideration of the above-identified application in view of the above amendment and the arguments set forth is respectfully requested.

Claims 1-12 are pending and under consideration. Claims 1, 4, 6, 7, 8 and 11 have been amended as explained below. Claims 2 and 9 have been cancelled. No new matter has been added as a result of these amendments.

Rejection of Claims 1-3 and 6-10 Under 35 U.S.C. Section 112, Second Paragraph

Claims 1-3 and 6-10 are rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite. Specifically, the Examiner states that the phrases "a fluoroether compound having an alpha fluoroether moiety" and "Lewis Acid inhibitor" are indefinite since the specific compounds and inhibitors are not defined. Additionally, the Examiner states that the phrase "effective stabilizing amount" is indefinite since it is not clear what is being stabilized and how this stabilization is achieved. Applicants respectfully traverse this rejection.

First, with respect to the phrase "a fluoroether compound having an alpha fluoroether moiety", claims 1 and 8 have been amended to recite sevoflurane. With respect to the phrase "Lewis Acid inhibitor", Applicants submit that this phrase is not indefinite and has been adequately defined in the specification on page 5, lines 12-14.

Second, with respect to the phrase "effective stabilizing amount" in claims 1 and 8, Applicants have amended these claims to make it clear that the Lewis acid inhibitor is present in an amount effective to prevent the degradation of the sevoflurane. Support for this amendment can be found on page 6, lines 8-12. In

view of these amendments to claims 1 and 8, Applicants submit that this rejection is moot and should be withdrawn.

Rejection of Claims 1-12 Under 35 U.S.C. Section 102(b)

Claims 1-12 are rejected under 35 U.S.C. Section 102(b) in view of Strum (Anesth. Analg.). Claims 1, 3, 8 and 10 are rejected under 35 U.S.C. Section 102(b) in view of Dressing (Repertorium). Applicants respectfully traverse this rejection.

Strum discusses the degradation of volatile anesthetics, but does not teach methods for preventing degradative reactions that arise as a result of the presence of a Lewis acid. Instead, the degradative reaction discussed in Strum is a degradation caused by soda lime, a strong inorganic base.

Dressing appears to disclose Fluothane® which contains 2-bromo-2-chloro-1:1:1-trifluoroethane and 0.01% thymol. 2-bromo-2-chloro-1:1:1-trifluoroethane is not a fluoroether, such as sevoflurane.

In summary, neither Strum nor Dressing teach a composition of sevoflurane and an amount of a Lewis acid inhibitor effective to prevent the degradation of the sevoflurane cause by a Lewis acid. Therefore, the rejection of claims under 35 U.S.C. Section 102(b) as being anticipated by Strum and Dressing is improper and should be withdrawn.

Double Patent Rejections

Claims 4, 5, 11 and 12 are rejected under 35 U.S.C. Section 101 as claiming the same invention as that of claims 2, 3, 7 and 8 of prior U.S. Patent No. 5,990,176.

Claim 4 of the present application is dependent upon claim 1. Claim 5 is dependent upon claim 4. Claim 11 is dependent upon claim 8. Claim 12 is

dependent upon claim 11. Claim 2 of U.S. Patent No. 5,990,176 is dependent upon claim 1 and claim 3 is dependent upon claim 2. Claim 7 of U.S. Patent No. 5,990,176 is dependent upon claim 6 and claim 8 is dependent upon claim 7.

Applicants submit that independent claims 1 and 8 of the present application do not have the same scope as independent claims 1 and 6 of U.S. Patent No. 5,990,176. Therefore, this rejection is improper and should be withdrawn.

Claims 1-3 and 6-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 5,990,176. Applicants herewith enclose a Terminal Disclaimer. Therefore, this rejection is now moot and should be withdrawn.

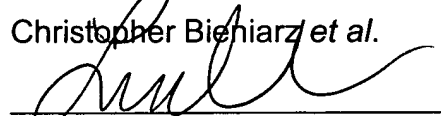
CONCLUSION

Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. Section 101, 112 and 102(b). Accordingly, a Notice of Allowance is believed in order and is respectfully requested.

Should the Examiner have any questions concerning the above, she is respectfully requested to contact the undersigned at the telephone number listed below. If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 23-0785.

Respectfully submitted,
Christopher Bieniarz *et al.*



Lisa V. Mueller
Registration No. 38,978
Attorney for Applicants

Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60662-2511

Tel.: (312) 876-2109
Fax.: (312) 876-2020